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FILED

JAN 18 2007

PAM L. DANIELS
COUNTY CLERK
SNOHOMISH CO. WASH.

**STATE OF WASHINGTON
SNOHOMISH COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

BLIND CHILDREN SERVICES OF
PUGET SOUND in its own name and
doing business as, ABANDONED
CHILDREN'S FOUNDATION, ABCC,
ABCCWW, ACF, AMERICAN BLIND
CHILDREN'S COUNCIL, AMERICAN
BLIND CHILDREN'S COUNCIL OF
WESTERN WASHINGTON, BCSOPS,
HANDICAPPED CHILDREN'S
OUTREACH FOR WASHINGTON
STATE, HANDICAPPED
CHILDREN'S OUTREACH, HCOWS;
DARIN ANTHONY DEWITT, Owner
of Blind Children Services of Puget
Sound, individually and as part of his
marital community; ROBERT
MELBOURNE SHAY, a/k/a R.M.
FUKA, individually and as part of his
marital community,

Defendants.

NO. **07 2 01895 4**

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER THE
CONSUMER PROTECTION ACT
AND THE CHARITABLE
SOLICITATIONS ACT

The Plaintiff, State of Washington, by and through its attorneys Rob McKenna,
Attorney General, and Shannon E. Smith, Senior Counsel, brings this action against the

COPY

1 Defendants named herein. The State alleges the following on information and belief:

2 **I. INTRODUCTION**

3 1.1 The Plaintiff, State of Washington, brings this action pursuant to RCW 19.86,
4 the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act. Plaintiff seeks
5 a permanent injunction, and other equitable relief, including civil penalties, restitution, and
6 attorneys' costs and fees, based on violations of the Consumer Protection Act.
7

8 **II. PLAINTIFF**

9 2.1 The Plaintiff is the State of Washington.

10 2.2 The Attorney General is authorized to commence this action pursuant to
11 RCW 19.86.080, RCW 19.86.140, and RCW 19.09.340.
12

13 **III. DEFENDANTS**

14 3.1 Defendant Blind Children Services of Puget Sound is an organization engaged
15 in the business of soliciting and collecting charitable contributions for charitable or purportedly
16 charitable purposes in the state of Washington. Blind Children Services of Puget Sound is also
17 known as Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind
18 Children's Council, American Blind Children's Council of Western Washington, BCSOPS,
19 Handicapped Children's Outreach for Washington State, Handicapped Children's Outreach,
20 and HCOWS, and has solicited and collected charitable contributions from the general public
21 under those names. Blind Children Services of Puget Sound has conducted business from
22 18601 Highway 99, Suite 203, Lynnwood, Washington, 98037, 3826 Friday Avenue, No. 2,
23 Everett, Washington, 98201, and 19707 64th Avenue, W., Suite 109, Lynnwood, Washington,
24 98036. Blind Children Services of Puget Sound also has used numerous Post Office Boxes in
25
26

1 the state of Washington. Blind Children Services of Puget Sound was registered as a charitable
2 organization with the Secretary of State pursuant to RCW 19.09 from April 9, 2003 until
3 May 6, 2005, at which time the Secretary of State canceled its registration.

4 **3.2** Defendant Darin Anthony DeWitt is the sole proprietor of Blind Children
5 Services of Puget Sound, and as such controls its policies, activities, and practices, including
6 those alleged in this Complaint. Defendant Darin Anthony DeWitt resides at 2303 Colby
7 Avenue, No. 4, Everett, Washington, 98201. Defendant Darin Anthony DeWitt is married to
8 Jane Doe DeWitt and together they constitute a marital community. All actions taken by Darin
9 Anthony DeWitt as alleged in this Complaint are for the benefit of his marital community.
10 Defendant resides in the state of Washington and transacts or has transacted business in the
11 state of Washington.
12

13 **3.3** Defendant Robert Melbourne Shay, a/k/a R.M. Fuka, directs, manages, or
14 controls the finances of Blind Children Services of Puget Sound, and as such controls its
15 policies, activities, and practices, including those alleged in this Complaint. Defendant Robert
16 Melbourne Shay resides at 22106 7th Street, S.W., Unit A, Edmonds, Washington, 98026.
17 Defendant Robert Melbourne Shay is married to Nellie M. Shay and together they constitute a
18 marital community. All actions taken by Defendant Robert Melbourne Shay as alleged in this
19 Complaint are for the benefit of his marital community. Defendant resides in the state of
20 Washington and transacts or has transacted business in the state of Washington.
21
22

23 **IV. JURISDICTION AND VENUE**

24 **4.1** The State files this complaint and institutes these proceedings under
25 RCW 19.86, the Consumer Protection Act, and RCW 19.09, the Charitable Solicitations Act.
26

1 **4.2** The Defendants or their agents have engaged in the conduct set forth in this
2 complaint in Snohomish County and elsewhere in the state of Washington.

3 **4.3** Venue is proper in Snohomish County pursuant to RCW 4.14.020.

4 **V. NATURE OF TRADE OR COMMERCE**

5 **5.1** Defendants are now, and have been at all times relevant to this lawsuit, engaged
6 in trade or commerce within the meaning of RCW 19.86.020 by directly or indirectly soliciting
7 and collecting charitable contributions from the general public in the state of Washington..

8 **5.2** Defendants have been at all times relevant to this action in competition with
9 others engaged in similar business in the state of Washington.
10

11 **VI. FACTS**

12 **6.1** Defendants have solicited and collected charitable contributions in the state of
13 Washington under the names of Blind Children Services of Puget Sound, Abandoned
14 Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's Council,
15 American Blind Children's Council of Western Washington, BCSOPS, Handicapped
16 Children's Outreach for Washington State, Handicapped Children's Outreach, and HCOWS.
17

18 **6.2** Defendant Blind Children Services of Puget Sound was registered as a
19 charitable organization with the Secretary of State from April 9, 2003 until May 6, 2005.
20 Blind Children Services of Puget Sound was authorized to solicit charitable contributions in
21 the state of Washington under the names Abandoned Children's Foundation, ABCC,
22 ABCCWW, ACF, American Blind Children's Council, American Blind Children's Council of
23 Western Washington, BCSOPS, Handicapped Children's Outreach for Washington State,
24 Handicapped Children's Outreach, and HCOWS from April 9, 2003 until May 6, 2005. After
25
26

1 the Secretary of State canceled Blind Children Services of Puget Sound's registration, the
2 Defendants continued to solicit and collect charitable contributions through at least March of
3 2006.

4
5 **VII. FIRST CAUSE OF ACTION**
6 **(Conducting Charitable Solicitations Without Registering With the Secretary of State)**

7 **7.1** Plaintiff realleges Paragraphs 1.1 through 6.2 and incorporates them herein as if
8 set forth in full.

9 **7.2** On numerous occasions from May 7, 2005 through at least March of 2006,
10 Defendants solicited and collected charitable contributions from the general public in the state
11 of Washington without being registered as a charitable organization with the Secretary of State.

12 **7.3** The conduct described in paragraphs 7.1 through 7.2 violates the Charitable
13 Solicitations Act, specifically RCW 19.09.065; 19.09.100(12), (15), (16), (18). Pursuant to
14 RCW 19.09.340, violations of the Charitable Solicitations Act are *per se* violations of the
15 Consumer Protection Act, RCW 19.86.

16
17 **VIII. SECOND CAUSE OF ACTION**
18 **(Misrepresenting That Charities Are Registered With the Secretary of State)**

19 **8.1** Plaintiff realleges Paragraphs 1.1 through 7.3 and incorporates them herein as if
20 set forth in full.

21 **8.2** Defendant Blind Children Services and its "also known as names" of
22 Abandoned Children's Foundation, ABCC, ABCCWW, ACF, American Blind Children's
23 Council, American Blind Children's Council of Western Washington, BCSOPS, Handicapped
24 Children's Outreach for Washington State, Handicapped Children's Outreach, and HCOWS
25 were registered with the Secretary of State under Registration No. 10386 until May 6, 2005,
26

1 when the Secretary of State canceled that registration.

2 **8.3** In written solicitation material they distributed to Washington consumers, the
3 Defendants misrepresented, either directly or by implication, that American Blind Children's
4 Council and Abandoned Children's Foundation were registered with the Secretary of State
5 under Registration No. 10386 after the registration was canceled on May 6, 2005.
6

7 **8.4** The conduct described in paragraphs 8.1 through 8.3 violates the Charitable
8 Solicitations Act, specifically RCW 19.09.100(12), (16), (18). Pursuant to RCW 19.09.340,
9 violations of the Charitable Solicitations Act are *per se* violations of the Consumer Protection
10 Act, RCW 19.86.

11 **8.5** Notwithstanding RCW 19.09.340, the conduct described in paragraphs 8.2
12 through 8.4 has the capacity to mislead a substantial number of consumers and constitutes
13 unfair or deceptive acts or practices in trade or commerce, and unfair methods of competition
14 in violation of RCW 19.86.
15

16 **IX. THIRD CAUSE OF ACTION**
17 **(Failure to Make Required Disclosures on Solicitation Material)**

18 **9.1** Plaintiff realleges Paragraphs 1.1 through 8.5 and incorporates them herein as if
19 set forth in full.

20 **9.2** In written solicitation material they distributed to Washington consumers, the
21 Defendants failed to clearly and conspicuously disclose in the body of the solicitation material
22 that the Defendants' notice of solicitation is on file with the Secretary of State and that the
23 potential donor could obtain additional financial disclosure information from the Secretary of
24 State at the Secretary of State's published number.
25

26 **9.3** The conduct described in paragraph 9.2 violates the Charitable Solicitations

1 Act, specifically RCW 19.09.100(1), (16), (18). Pursuant to RCW 19.09.340, violations of the
2 Charitable Solicitations Act are *per se* violations of the Consumer Protection Act, RCW 19.86.

3 **9.4** Notwithstanding RCW 19.09.340, the conduct described in paragraph 9.2 has
4 the capacity to mislead a substantial number of consumers and constitutes unfair or deceptive
5 acts or practices in trade or commerce, and unfair methods of competition in violation of
6 RCW 19.86.
7

8 **X. PRAYER FOR RELIEF**

9 **WHEREFORE**, Plaintiff, State of Washington, prays for relief as follows:

10 **10.1** That the Court adjudge and decree that the defendant has engaged in the
11 conduct complained of herein.

12 **10.2** That the Court adjudge and decree that the conduct complained of constitutes
13 violations of the Charitable Solicitations Act, RCW 19.09 and violations of the Consumer
14 Protection Act, RCW 19.86.
15

16 **10.3** That the Court issue a permanent injunction enjoining and restraining the
17 Defendants, and their owners, representatives, successors, assigns, officers, agents, servants,
18 employees, and all other persons acting or claiming to act for, on behalf of, or in active concert
19 or participation with the Defendants, from engaging or continuing to engage in charitable
20 solicitations in the state of Washington.
21

22 **10.4** That the Court issue an permanent injunction enjoining and restraining
23 Defendants Darin Anthony DeWitt and Robert Melbourne Shay from registering or attempting
24 to register any entity as a charitable organization in the state of Washington; and from
25 managing, controlling, providing accounting services for, obtaining or seeking employment
26

1 with, or volunteering with any registered or unregistered charitable organization in the state of
2 Washington.

3 **10.5** That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two
4 thousand dollars (\$2,000) per violation against the Defendant for each and every violation of
5 RCW 19.09 and 19.86 caused by the conduct complained of herein.
6

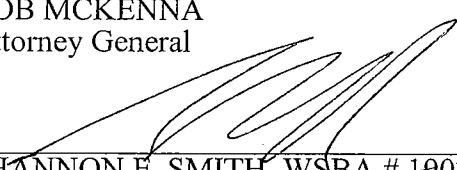
7 **10.6** That the Court make such orders pursuant to RCW 19.86.080 as it deems
8 appropriate to provide for restitution to consumers of money or property acquired by the
9 defendant as a result of the conduct complained of herein.

10 **10.7** That the Court make such orders pursuant to RCW 19.86.080 to provide that the
11 plaintiff, State of Washington, have and recover from the defendant the costs of this action,
12 including reasonable attorneys' fees.
13

14 **10.8** For such other relief as the Court may deem just and proper.

15 DATED this 19 day of September, 2006.

16 ROB MCKENNA
17 Attorney General

18 
19 SHANNON E. SMITH, WSBA #19077
20 Senior Counsel
21 Attorneys for Plaintiff
22 State of Washington
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